

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION

SHANTA WILSON,)	
)	
Plaintiff,)	Case No. 4:22-cv-1346
)	
v.)	St. Louis County Circuit Court
)	Case No. 22SL-CC04749
FAMILY DOLLAR STORES OF)	
MISSOURI, LLC,)	
)	JURY TRIAL DEMANDED
Defendant.)	

NOTICE OF REMOVAL

Defendant Family Dollar Stores of Missouri, LLC, pursuant to 28 U.S.C. §1441(b) and 28 U.S.C. §1446, hereby files this Notice of Removal of the above-entitled action to the United States District Court for the Eastern District of Missouri, and in support thereof, states as follows:

A. Venue is proper in the U.S. District Court for the Eastern District of Missouri

1. The above-entitled action was filed by Plaintiff in St. Louis County, Missouri as Case No. 22SL-CC04749 on November 7, 2022.

2. Pursuant to 28 U.S.C. §1446(a), venue lies in the United States District Court for the Eastern District of Missouri, Eastern Division, because St. Louis County, Missouri is within the Eastern District of Missouri.

B. The Procedural Requirements for Removal are Satisfied

3. Defendant was served with the Summons and Complaint on or about November 15, 2022. This Notice of Removal is timely filed pursuant to 28 U.S.C. §1446(b)(1).

4. Written notice of the filing of this Notice of Removal is being given to Plaintiff and a copy of this Notice of Removal is being filed with the St. Louis County Clerk of Court pursuant to 28 U.S.C. §1446(d).

5. Copies of all known process and pleadings served upon Defendant are filed contemporaneously with this Notice of Removal in accordance with 28 U.S.C. §1446(a). See Exhibit 1, Plaintiff's Petition.

C. There is Diversity Among The Parties

6. This Court has original jurisdiction over this action pursuant to 28 U.S.C. §1332(a) and removal to this Court is proper pursuant to 28 U.S.C. §1441(b)(2) because none of the Defendants are a citizen of this State, and there is complete diversity of citizenship between all parties.

7. Plaintiff is an individual domiciled in Missouri and Plaintiff is a citizen of the State of Missouri.

8. Defendant Family Dollar Stores of Missouri, LLC is a limited liability company organized and existing under the laws of the Commonwealth of Virginia, with its principal place of business in Virginia. Family Dollar Stores of Missouri, LLC's sole member is Family Dollar Stores, Inc., a corporation organized and existing under the laws of the State of Delaware, with its principal place of business in Virginia.

9. No member of Family Dollar Stores of Missouri, LLC is a resident of Missouri.

D. The Amount in Controversy Exceeds \$75,000

10. The amount in controversy, exclusive of interest and costs, exceeds \$75,000.00 as required by 28 U.S.C. §1332(a).

11. "If removal of a civil action is sought on the basis of the jurisdiction conferred by section 1332 (a), the sum demanded in good faith in the initial pleading shall be deemed to be the amount in controversy, *except that* – (A) the notice of removal may assert the amount in controversy if the initial pleading seeks – (ii) a money judgment, but the State practice either does

not permit demand for a specific sum or permits recovery of damages in excess of the amount demanded.” 28 U.S.C. §1446(c)(2)(A)(ii).

12. Under Missouri Supreme Court Rule 55.05, a plaintiff alleging a tort claim is not permitted to plead a specific dollar amount, except to determine jurisdiction. *Carlyon v. Counts*, 4:16 CV 776 CDP, 2016 WL 3753704, at *1 (E.D. Mo. July 14, 2016).

13. “A removing party need not show that the plaintiff will prevail or collect more than \$75,000 if he does. The burden, rather, is to show what the plaintiff hopes to get out of the litigation; if this exceeds the jurisdictional amount, then the case proceeds in federal court unless a rule of law will keep the award under the threshold.” *See e.g. Rising-Moore v. Red Roof Inns, Inc.*, 435 F.3d 813, 816 (7th Cir. 2006).

14. Here, Plaintiff alleges she “was injured when she slipped and fell on a wet floor while in the Defendant’s store.” (Plaintiff’s Petition, ¶ 5). Plaintiff alleges her injuries resulted in multiple spinal surgeries, including “a C3-4, C4-5 and C5-6 anterior cervical discectomy and instrumented fusion . . . anterior lumbar interbody fusion L6-S1; removal of posterior hardware L6-S1; uninstrumented posterior spinal fusion L6-S1 and anterior spinal instrumentation L5-S1.” (*Id.*, ¶ 8). Plaintiff further claims she “has suffered special damages, to wit: medical expenses which total approximately \$255,879.36 and will suffer additional medical expenses in the future in an amount which cannot be determined at this time.” (*Id.*, ¶ 9).

15. In light of these allegations, a good faith estimate of the amount in controversy exceeds \$75,000, exclusive of interest and costs, and it is not legally certain that the amount in controversy is less than \$75,000.

WHEREFORE, Defendant Family Dollar Stores of Missouri, LLC remove this case to the United States District Court for the Eastern District of Missouri and hereby request that the filing of this Notice of Removal shall effect the removal of said civil action to this Court.

/s/ Patrick E. Foppe

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CERTIFICATE OF SERVICE

The undersigned certifies that the foregoing was filed electronically with the Clerk of Court on December 15, 2022, to be served by operation of the Court's electronic filing system upon: James J. Sievers, Jr., Sievers & Associates, 8131 Manchester Rd., St. Louis, MO 63144, jim@sieverslaw.net, Attorneys for Plaintiff.

/s/ Patrick E. Foppe